

U.S. Patent Application Serial No. **09/642,883**
Response Under 37 C.F.R. §1.116 dated September 22, 2003
Reply to the Final Rejection of March 20, 2003

REMARKS

Claims 1 – 15 are pending in the application. By this Amendment, claims 1, 6 and 11 have been canceled and claims 2, 4, 7, 9, 12 and 14 have been amended. Applicants respectfully submit that no new matter has been added. It is believed that this Amendment is fully responsive to the Final Rejection dated March 20, 2003.

Examiner's Interview

The courtesy extended by Examiner Chang during the August 21, 2003 interview is gratefully acknowledged. During the interview, as stipulated in the Examiner Interview Record, it is respectfully submitted that Examiner Chang found that "Applicant's attorney present[ed] arguments that appear to overcome the outstanding rejections under 35 USC 112 first paragraph." In addition, it is also respectfully submitted that Examiner Chang found "[t]he subject matters in claims 2 and 4 appear to overcome the cited references in the application."

New Matter Rejection:

The amendment filed on January 27, 2003 stands objected to in item 1 of the Action under 35 U.S.C. 132 due to new matter. 35 U.S.C. §132 states that no amendment shall introduce new matter into the disclosure of the invention. More specifically, the Examiner asserts that the feature of "static plane diffraction grating" is not supported by the specification as originally filed.

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As such, the term “static” has been deleted from the claimed invention. Accordingly, withdrawal of this objection is respectfully requested.

35 U.S.C. §112, First Paragraph Rejection:

Claims 1-15 are rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The reasons for rejection based on the newly added subject matter are set forth in the paragraph above.

This rejection is respectfully traversed.

As discussed above, the term “static” has been deleted from the claimed invention. Accordingly, withdrawal of this rejection is respectfully solicited.

35 U.S.C. §112, First Paragraph Rejection:

In addition, claims 1-15 stand rejected under 35 U.S.C. §112, first paragraph, in item 4 of the action, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

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This rejection is respectfully traversed.

More specifically, the Examiner takes the position that the phrase “for maximizing a diffraction efficiency of the radial area,” added to claims 1, 6 and 11, is not properly supported by the specification as originally filed. However, the Examiner’s position is unreasonable since the bridging paragraph between pages 6 and 7 of the present specification clearly supports this claim language.

Moreover, as discussed above, during the August 21, 2003 interview it was agreed that the rejection under 35 U.S.C. §112, first paragraph, appeared to be overcome. Accordingly, withdrawal of this rejection is respectfully traversed.

Allowable Subject Matter:

As discussed above, during the August 21, 2003 interview it was agreed that the subject matter of claims 2 and 4 appeared to be allowable over applied art. As such, each of claims 2 and 4 have been amended into independent form. Thus, it is respectfully submitted that claims 2 and 4 (and dependent claims 3 and 5) are now allowable.

Further, since claims 7 and 12 include the same allowable subject matter of claim 2, such claims 7 and 12 have also been amended into independent form. Thus, it is respectfully submitted that claims 7 and 12 (and dependent claims 8 and 13) are now allowable.

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Still further, since claims 9 and 14 include the same allowable subject matter of claim 4, such claims 9 and 14 have also been amended into independent form. Thus, it is respectfully submitted that claims 9 and 14 (and dependent claims 10 and 15) are now allowable.

Thus, it is respectfully submitted that all of the remaining claims 2, 3, 4, 5, 7, 8, 9, 10, 12, 13, 14 and 15 are now allowable.

In view of the aforementioned amendments and accompanying remarks, claims, as amended, are in condition for allowance, which action, at an early date, is requested.

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If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

Respectfully submitted,

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